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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 31 March 2004 from the Permanent Mission of Dominica to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Commonwealth of Dominica to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, upon instructions from the Government of the Commonwealth of Dominica, has the honour to transmit the attached implementation report, called for in paragraph 6 of resolution 1455 (2003) (see annex).

The Government of the Commonwealth of Dominica stands ready to provide the Committee with further reports or information, as necessary.

04-31904 (E) 190504

Annex to the note verbale dated 31 March 2004 from the Permanent Mission of Dominica to the United Nations addressed to the Chairman of the Committee*

REPORT OF THE COMMONWEALTH OF DOMINICA PURSUANT TO PARAGRAPH 6 OF SECURITY COUNCIL RESOLUTION 1455 (2003)

Background

The Government of the Commonwealth of Dominica continues its active cooperation with the Committee established pursuant to resolution 1267 (1999) and is committed to fulfill its international obligations in compliance with the above-mentioned resolution and other resolutions, which followed it.

The Commonwealth of Dominica strongly supported the adoption of UNSC resolutions concerning the fight against terrorism and in particular resolutions 1368, 1373, 1377, which declare terrorism a threat to peace and international security.

This report is submitted to the Security Council Committee established pursuant to resolution 1267 (1999) in compliance with paragraph 6 of UN Security Council resolution 1455 (2003).

I. Introduction

1. **Please provide a description of activities, if any, by Osama bin Laden, al-Qa'idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

There are no reports of any activities by Osama bin Laden, al-Qa'idah, the Taliban or their associates in the Commonwealth of Dominica. They do not appear to constitute a serious threat to the Commonwealth of Dominica. No likely trends in relation to their activities are identifiable.

II. Consolidated List

2. **How has the 1267 Committee's List been incorporated within your legal system and your administrative structure including financial supervision, police, immigration control, customs and consular authorities?**

The 1267 Committee's List is distributed by the Ministry of Foreign Affairs to the Ministry of Finance, law enforcement agencies and immigration and customs officials, requesting them to check if any individual or entity has assets associated with or belonging to Osama bin Laden, the Taliban or al-Qa'idah.

The International Business Unit, the regulatory authority, distributes the list to local banks for checks of the individuals and/entities listed. The Financial Intelligence Unit (FIU) is also involved in the solicitation of checks of listed individuals and/or entities. The FIU is developing a database of listed individuals and/or entities for appropriate action.

The Money Laundering (Prevention) Act No. 20 of 2000 and the Suppression of Financing of

* Additional documentation is on file with the Secretariat and is available for consultation.

Terrorism Act No. 3 of 2003 are the relevant legislation for criminalization of any illicit financial and/or terrorist activity.

3. **Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list. If so, please describe these problems.**

Through cooperation among relevant national institutions and their collaboration with their counterparts in different countries, we have not experienced any problems or difficulties on identification and verification of the personal data of the individuals and entities that are currently on the List seeking to extend their activities in our country. Our main challenge is overcoming difficulties in translating Arabic documentation.

4. **Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

Relevant authorities have not identified any of the designated individuals or entities within the territory of the Commonwealth of Dominica.

5. **Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa'idah that have not been included in the list, unless to do so would compromise investigations or enforcement action.**

No individuals or entities associated with the Taliban, al-Qa'idah or Osama bin Laden, that have been included on List have been identified in the territory of Commonwealth of Dominica. There are no names to submit.

6. **Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list? Please specify and elaborate, as appropriate.**

No lawsuit has been brought nor legal proceedings initiated against the official authorities in the Commonwealth of Dominica with reference to inclusion of individuals or entities on the List.

7. **Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the list? If so, please provide this information to the Committee as well as similar information on the listed entities, as available.**

None of the listed individuals have been identified as nationals or residents of the Commonwealth of Dominica nor do the Dominican authorities have any relevant information available on listed entities that have not already been included on the List.

8. **According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa'idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa'idah training camps established in your territory or in another country.**

The Suppression of Financing of Terrorism Act, No. 3 of 2003 is a comprehensive legislation to suppress terrorism in the Commonwealth of Dominica and assist other countries in their fight against

terrorism. Although al-Qa'idah is not specifically mentioned, the Act provides mechanisms to suppress terrorist activity in Dominica.

Part V of the Suppression of the Financing of Terrorism Act No. 3 of 2003 addresses Prohibitions respecting Terrorists and Terrorist Groups. This section of the legislation covers six sections, viz:

- Dealings with property of terrorist groups prohibited.
- Financial institutions prohibited from transacting business with terrorists and terrorist groups.
- Use of financial services.
- Supply and support to terrorist and terrorist groups.
- Incitement of, promotion and participation in the Commission of offences and terrorist acts.
- Penalties respecting prohibitions.

III. Financial and Economic Assets Freeze

9. **Please describe briefly:**

   - **The domestic legal basis to implement the asset freeze required by the resolutions above.**

   Part IX of The Suppression of Financing of Terrorism Act No. 3 of 2003 addresses the Seizure and Forfeiture of Terrorist Property. Part IX of the Act No. 3 of 2003 comprises three sections, namely:

   - Order for Seizure and Restraint for Property
   - Order for Forfeiture of Property
   - Power to Prohibit Making Funds available to persons in foreign states to commit terrorist acts.
   - **Any impediment under your domestic law in this context and steps taken to address them.**

   At present, no barriers have been identified in the course of implementation of the legislative framework.

10. **Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qa'idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

By dint of Part VI of the Suppression of the Financing of Terrorism Act No. 3 of 2003, the Financial Intelligence Unit (FIU) and the Commissioner of Police are authorized to investigate terrorist activities. The Financial Intelligence Unit is a member of the Egmont Group and as such has access to a secured regional and international network. The Dominica Police Service (DPS) is also part of the Caribbean regional network, and a member of Interpol.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa'idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

Section 36 of Part VIII of the Suppression of Financing of Terrorism Act. No. 3 of 2003 deals with this matter. This section of the legislation imposes an obligation on financial institutions to disclose property of terrorist groups to the FIU, the Commissioner of Police, and the Eastern Caribbean Central bank (ECCB). Due Diligence, and Know Your Customer requirements are addressed in the Money Laundering (Prevention) Regulations, Statutory Rules and Orders No. 14 of 2001, and in the supportive Anti-Money laundering Guidance Notes. These Due Diligence and Know Your Customer requirements are based on the Basle Statement of Principles. The money Laundering Supervisory Authority is responsible for oversight as per Section 11 of Part III of the Money Laundering and (Prevention) Act No. 20 of 2000.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002).

There are no frozen assets of listed individuals and entities in our jurisdiction.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of al-Qa'idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

This item is not applicable to our jurisdiction.

14. Pursuant to resolution 1455 (2003), 1390 (2001), 1333 (2002) and 1267 (1999), States are to ensure that no funds, financial assets, or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

Part V of the Suppression of the Financing of Terrorism Act No. 3 of 2003 captioned "Prohibitions respecting Terrorists and Terrorist Groups" addresses the obligations emanating form the Security Council resolutions 1455 (2003), 1390 (2002), 1333 (2000) AND 1267 (1999). Part V of the Suppression of Financing of Terrorism Act No. 3 covers: 1) Dealings with property of terrorists and terrorist groups, 2) Financial institutions prohibited from transacting business with terrorists and terrorist groups, 3) Use of Financial Services, 4) Supply and support to terrorist and terrorist groups, 5) Incitement of, promotion of, and participation in the Commission of offences and terrorist acts, and 6) Penalties respecting prohibitions.

- **The methodology, if any, used to inform banks and other financial and other financial institutions of restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of al-Qa'idah or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**

  The International Business Unit (IBU), the regulatory authority for financial institutions, distributes information on individuals and/or entities listed by the Committee to financial institutions. The Ministry of Foreign Affairs furnishes these lists to the IBU. The FIU is also involved in the dissemination of relevant information to financial institutions.

- **Required bank reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**

  The required bank reporting procedures are captured in Section 36 (Duty to Disclose Certain Information to the Financial Intelligence Unit) of Part VIII of the Suppression of the Financing of Terrorism Act, No. 3 of 2003. STR's currently submitted under the Money Laundering Prevention Act, No. 20 of 2000 are analysed and investigated by the FIU in collaboration with strategic entities. Reports submitted by financial institutions will be reviewed and evaluated by the Commissioner of Police and the FIU.

- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**

  Section 36 of Suppression of Financing of Terrorism Act, No. 3 of 2003 not only addresses financial institutions but also covers persons. Person includes numerous entities as defined in Section 2, Act. No. 3 of 2003. Reports will be reviewed and evaluated by the Commissioner of Police and the FIU.

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds, and other related items.**

  According to the Money Laundering Act, No.20 of 2000, the Minisry of Finance is empowered to issue the license for persons that are not banks but are involved in extraction, processing, and transactions in precious metals and stones. They have to comply with requirements set in the law when importing or exporting precious metals and stones. These have to be declared before the custom authorities.

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as- or similar to- *hawala*, as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

  Part X of the Suppression of the Financing of Terrorism Act. No 3 of 2003 forbid the involvement of charities in terrorist activities. This section of the Act empowers the Minister of Finance to refuse an application for registration to a charity linked to terrorist groups, and to revoke the registration of an existing charity if there are reasonable grounds establishing a linkage to terrorist groups.

IV. Travel Ban

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The Travel Ban is implemented administratively by inclusion and circulation of the relevant details in the Watch List which is available to all officers at ports-of-entry.

16. Have you included the names of the listed individuals in your national 'stop list" or border checkpoint list?

The names of listed individuals and other particulars once circulated to the relevant immigration agencies are incorporated into the national Watch List. This is a paper-based arrangement.

17. How often do you transmit the updated list to your border control authorities? Do you possess the capability of searching list data using electronic means at all your entry points?

The updated list is transmitted to border control authorities on a continuous basis. Dominica does not possess the capability to search List Data using electronic means at all entry points.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

No listed individual has been stopped at border points or has transited through Dominican territory.

19. Please provide an outline of measures if any, taken to incorporate the list in the reference database of your Consular offices. Have your visa-issuing authorities identified and visa applicant whose name appears on the list?

Consular offices do not have a "reference database" incorporating the Consolidated List. Overseas missions of the Commonwealth of Dominica are informed by the Consolidated List.

V. Arms Embargo

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction by Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertaking, and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

The Office of the Prime Minister must approve all importation, transit and exportation of weapons through Dominican ports. Importers/exporters and shipping agents must furnish all documentation, that is, import, export, and transit certificates and/or licenses for approval by the Office of the Prime Minister prior to them being allowed to enter the country.

This is in line with the Organization of American States (OAS) Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Ammunition.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

The export of military goods without a permit (which would not be granted to Osama bin Laden, al-Qa'idah or the Taliban) is a violation of the **Firearms Act, or Export and Import Act.**

22. Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups undertakings and entities associated with them from obtaining items under the established arms embargo?

The system is based on the OAS Model Regulations and the Convention Against the Illicit Trafficking in Weapons, Munitions, Explosives and Related Materials Ammunition. The **Firearms Act, and the Export and Import Act are** the relevant legislation.

The Commissioner of Police and the Office of the Prime Minister must approve all arms imports, exports and transit of arms, ammunition, dangerous explosives before they can enter Dominican ports-of-entry. The Commonwealth of Dominica is not a producer of weapons or ammunition.

23. Do you have safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated?

A permit would not be granted if there was any reason to believe that the goods would be diverted to Osama bin laden, al-Qa'idah or the Taliban. This is enforced by Dominican Customs and the Dominica Police Force.

VI. Assistance and Conclusion

24. Would your state be willing or able to provide assistance to other States to help implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals?

The Commonwealth of Dominica does not possess the capacity required to provide assistance to other States to aid implementation of the measures contained in Security Council resolutions 1267 and 1455.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/al Qa'idah sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

Not applicable.

26. Please include any additional information you believe pertinent.

Not applicable.

Appendices:

1. Suppression of the Financing of Terrorism Act, No. 3 of 2003
2. Exchange of Information Act, No. 25 of 2001
3. Money Laundering (Prevention) Regulations, S.R.O. 14 of 2001
4. Money Laundering (Prevention) Act, No. 20 of 2000

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 30 April 2004 from the Permanent Mission of Costa Rica to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Costa Rica to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities, and has the honour to refer to his note SCA/2/04/(07) of 11 February 2004 concerning the submission of reports in accordance with paragraph 22 of Council resolution 1526 (2004), of 30 January 2004.

The Permanent Mission of Costa Rica has the honour to enclose herewith the report submitted by the Government of Costa Rica pursuant to resolutions 1267 (1999) and 1526 (2004) (see annex). The Permanent Mission would be grateful if you would have the report circulated as a document of the Security Council. However, the responses to questions 15 and 19 are of a confidential nature, and are not for publication.

04-33672 (E) 010604 010604

Annex to the note verbale dated 30 April 2004 from the Permanent Mission of Costa Rica to the United Nations addressed to the Chairman of the Committee

Report submitted by the Republic of Costa Rica pursuant to Security Council resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Osama bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

According to the studies which have been conducted, Osama bin Laden, Al-Qaida, the Taliban and their associates have not been involved in any activities in Costa Rica; they are not known to pose any threat to the country.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The Consolidated List has been transmitted to the Costa Rican Drug Institute (ICD), the Office of the Superintendent of Financial Institutions (SUGEF), the Office of the Superintendent of Securities (SUGEVAL), the Office of the Superintendent of Pensions (SUPEN), and the Directorate of Migration and Aliens. The Directorate of Intelligence and Security (DIS) also works with the List, in coordination with the migration and customs authorities and the police forces.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

The List is difficult to use because in many cases the information it contains is not very precise and the listed persons often use aliases. With the exception of SUPEN, which has a centralized database of members of pension funds in the country, the other Superintendents' Offices are required to provide the List to all the financial bodies that they monitor, both public and private, and await their responses. This has slowed the process of checking and seeking out the assets of the listed persons.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

According to the studies carried out in Costa Rica, none of the natural and legal persons named in the List have migrated to the country or possess assets or resources here.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

No individuals or entities associated with Osama bin Laden or members of the Taliban or Al-Qaida that have not been included in the List have been found in Costa Rica.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

No such proceedings have been brought to date.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

None of the listed persons are nationals or residents of Costa Rica. There is no information on persons not included in the List.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

According to the investigations which have been conducted, there are no members of Al-Qaida or terrorist training camps in Costa Rica. In coordination with the International Criminal Police Organization (Interpol), DIS monitors the entry to and departure from the country of suspect individuals, and if such a case were to arise, it would result in the activation of coordination mechanisms with the immigration and customs authorities and the security forces, so that the necessary action could be taken.

III. Financial and economic assets freeze

Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

9. Please describe briefly:

- **The domestic legal basis to implement the asset freeze required by the resolutions above;**

The financial monitoring system in Costa Rica, designed to prevent the commission of offences such as the laundering of funds derived from the commission of serious offences, is coordinated by the Costa Rican Drug Institute (ICD), whose Financial Analysis Unit (UAF) works in coordination with SUGEF, SUGEVAL and SUPEN, which directly supervise the various bodies making up the national financial system. This legal relationship, together with the protocols established in order to detect suspicious clients or transactions, are regulated by the

Act on narcotics, psychotropic substances, illicit drugs, money-laundering and related activities (Act No. 7786 of 30 April 1998, amended by Act No. 8204 of December 2001). The Act also provides for procedures to lift banking secrecy and for the freezing of funds, subject to court order.

However, Act No. 8204 refers to the laundering of funds derived from the commission of serious offences, and currently does not empower ICD to take action in order to prevent the financing of terrorism, which can occur without the commission of a prior offence the proceeds of which would need to be laundered. Nonetheless, if necessary, if assets detected within the country were thought to be intended for intentionally financing terrorism, a judicial case could be brought against the persons involved on the basis of article 274 (unlawful association) or article 374 (international crime) of the Penal Code (Act No. 4573 of 4 May 1970 and its amendments), which provide for penalties for persons belonging to organizations, whether national or international, the purpose of which is to commit acts of terrorism. This law has been interpreted in such a way that the financing of acts of terrorism can currently be penalized, if necessary, under the current legislation. On the basis of such an accusation under criminal law, a court order would be issued, freezing the funds involved. Another possibility is that the freezing of the funds could take place as a precautionary measure at the request of another country, through a process of judicial cooperation in the form of a letter rogatory. In that case, the court order freezing the funds would be issued at the request of another country.

- **Any impediments under your domestic law in this context and steps taken to address them.**

As stated in the above response, the current Act No. 8204 does not provide for advance screening mechanisms to prevent the financing of terrorism. In order to fill this gap, and as a result of the reports submitted by Costa Rica to the Counter-Terrorism Committee (CTC) and the subsequent exchanges with that Committee, the Government of Costa Rica produced a draft law to strengthen its existing counter-terrorism legislation, proposing reforms to the country's legal system to adapt it to the present-day requirements of the fight against terrorism. To that end, the draft law proposes first of all to reform the Penal Code so that it will be clearly set out that activities for the purpose of financing terrorism or recruiting persons to commit acts of terrorism, within or outside the country, are criminal offences, in accordance with the terms of Security Council resolution 1373 (2001) and other current international law.

The draft legislation also amends Act No. 8204, extending the range of the monitoring of financial transactions and the scope of action in that regard of the ICD and the UAF, so that the monitoring can also be effective in the prevention and detection of the financing of terrorism. It also provides for reforms so that measures established in order to penalize money-laundering offences can also be applied to offences related to terrorist financing.

The matter is being approached in this manner in order to take advantage of the existing legal framework and experience in the area of financial monitoring in Costa Rica. It is considered neither appropriate nor feasible, from the economic and workload standpoint, to create a new agency dedicated solely to preventing the financing of terrorism. These reforms would enable the country to fulfil its

international obligations with a minimum of changes to its national legislation. Particularly in the case of the prevention and suppression of the financing of terrorism, the new measures would build on the existing legal framework, infrastructure and experience in the prevention of money-laundering, since it would be for UAF, together with the three Superintendents' Offices (SUGEF, SUGEVAL and SUPEN), to take responsibility for detecting and preventing the financing of terrorism.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, Al-Qaida or Taliban related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

A national intelligence community has been set up in Costa Rica, involving the ICD, the three Superintendents' Offices, DIS and Interpol, which jointly conduct investigations and analyses of natural and legal persons suspected of having terrorist connections. On the basis of the lists produced by the Security Council, the financial intelligence community can investigate whether such persons have resources in the country. If so, the UAF would pass on the information to the judicial authorities so that they can issue the court order authorizing the necessary action. As has been explained above, the national intelligence community interacts constantly with the regional and worldwide intelligence communities, sharing the necessary information so that advance knowledge can be obtained as to the movements of persons suspected of belonging to terrorist groups.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

Article 15 of Act No. 8204 establishes that persons who engage in the following activities, among others, shall also be subject to the Act:

(a) Systematic or substantial money-changing operations and transfers through any instrument, such as cheques, bank drafts, bills of exchange or similar instruments;

(b) Systematic or substantial operations with respect to the issuance, sale, recovery or transfer of traveller's cheques or postal or money orders;

(c) Systematic or substantial transfers of funds effected by any means;

(d) Management of trust funds or any kind of resource management carried out by individuals or legal entities that are financial intermediaries.

Individuals or legal entities that carry out the activities indicated above and are not supervised by any of the three Superintendents' Offices in Costa Rica must register with SUGEF, although this does not mean that they are authorized to operate.

In order to prevent operations involving the concealment and movement of money of suspicious origin and other transactions aimed at laundering money deriving from serious crimes, financial entities will have to comply with the following provisions of article 16 of newly adopted Act No. 8204 on psychotropic substances:

(a) Obtain and keep information on the true identity of persons on whose behalf an account is opened or a transaction is carried out, if there are suspicions that customers may not be acting on their own behalf, especially in the case of legal entities that do not carry on commercial, financial or industrial operations in the country where they are based or domiciled;

(b) Keep named accounts; anonymous accounts, numbered accounts or accounts under fictitious or inaccurate names are not allowed;

(c) Record and verify, by reliable means, the identity, representative status, domicile, legal capacity, occupation or company aim of individuals or legal entities, as well as other identifying data, regardless of whether they are occasional or regular customers. Such verification shall be carried out on the basis of identity documents, passports, birth certificates, driving licences, company deeds and statutes or any other documents, official or personal. In particular, it shall be carried out when commercial relations are established, especially when new accounts are opened, savings books are issued, trust fund transactions are carried out, safe deposit boxes are rented or cash transactions take place involving over US$ 10,000 or the equivalent in other foreign currencies;

(d) Keep, for the duration of an operation and for at least five years after the date on which the transaction is completed, records of the information and documentation required under article 16;

(e) Keep for a minimum of five years customer identity records, account records, commercial correspondence and records of financial operations enabling a transaction to be reconstructed or concluded.

All financial entities will have to record, on a form designed by the competent supervisory and regulatory body, any incoming or outgoing cash transaction, in national or foreign currency, involving over US$ 10,000 or the equivalent in colones. This also applies to transfers to and from abroad.

Article 21 specifies the data that will have to be included on forms filled out by financial entities supervised by SUGEF, SUGEVAL and SUPEN:

(a) Identity, signature, date of birth and address of the person physically making the transaction. A photocopy of some form of identity document will also have to be produced. Legal entities will have to provide the same information in respect of their legal representative and their resident agent as that requested from individuals;

(b) Identity and address of the person in whose name the transaction is being carried out;

(c) Identity and address of the beneficiary or recipient, if any, of the transaction;

(d) Identity of the accounts, if any, affected by the transaction;

(e) Type of transaction involved;

(f) Identity of the financial entity which made the transaction;

(g) Date, time and amount of the transaction;

(h) Origin of the transaction;

(i) Identification of the official who processed the transaction.

Article 22 establishes the obligation of the financial entity to record the transaction accurately and fully on the date on which it takes place and to keep the record of the transaction for five years from that date.

Under article 23, multiple cash transactions, whether in national or foreign currency, the aggregate amount of which exceeds US$ 10,000 or the equivalent in colones are deemed to be a single transaction if they are carried out by or on behalf of a specific person in the course of one day or within any other period of time established by the competent supervisory and regulatory body. In such cases, if the financial entity or its employees, officials or agents are aware of such transactions, they must record them as indicated above.

Under articles 24 and 25, financial entities subject to the provisions of this section must pay special attention to suspicious transactions, such as those not carried out in the customary manner and those which, while not significant, take place regularly without any obvious economic or legal basis.

If it is suspected that the transactions described above constitute or are related to illicit activities, including transactions deriving from transfers made to or from the country, financial entities must immediately report them confidentially to the corresponding oversight body, which shall refer them at once to the Financial Analysis Unit.

Article 26 of Act No. 8204 establishes the obligation of supervised entities to adopt, develop and implement internal programmes, regulations, procedures and controls to prevent and detect activities which would use their services as a means of laundering money derived from serious crimes and from any procedures which may serve to launder such money. Such programmes shall include, at the least, the adoption of procedures to ensure a high level of staff integrity and a system for evaluating the personal, employment and financial background of staff, as well as ongoing programmes to train and educate staff about the responsibilities established by the Act.

The monitoring activities described above refer to the prevention of money-laundering and the detection of suspicious transactions. As for assets attributable to Osama bin Laden and members of Al-Qaida and the Taliban and associated individuals and entities, or which may be made available to them, those controls would apply if such persons conducted financial transactions falling within the parameters described above. If that were not the case, the means of detecting assets belonging to them or to any other persons connected with terrorism would be on the basis of the lists provided by the Security Council and of information from other countries, international or regional organizations, or the regional and international intelligence community.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **Identification(s) of the person or entities whose assets have been frozen;**
- **A description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **The value of assets frozen.**

No assets belonging to Listed individuals or entities have been identified in Costa Rica; consequently, there is no description of assets frozen or of their value.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

No funds or other assets have been frozen.

14. Pursuant to resolutions 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**

See answer to question 2. The procedure is that the lists are sent to the ICD for forwarding to the three Superintendents' Offices, which in turn send them to the supervised entities. If it were to be discovered that Listed individuals or entities had assets in Costa Rica, the supervised entity must inform the appropriate Superintendent's Office, which in turn would forward the information to the UAF. Having verified the situation, the latter would then transmit the information to the judicial branch so that the court order to freeze the funds could be issued.

- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**

As stated in response to question 11, Act No. 8204 sets out the general procedures. Also of relevance are External Circular 15-2001, External Circular

SUGEF 27-2001 and External Circular SUGEF 039-2003, which are attached as annexes and explain the procedures in greater detail.

- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**

See the previous answer and the answer to question 11.

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**

There are currently no such regulations establishing financial controls over the items mentioned in this question. However, the draft law to strengthen the country's counter-terrorism legislation proposes the inclusion of a new article which would govern goods of this type. The text of the proposed article is as follows:

> "Article 15 BIS. Individuals and corporate entities which are engaged in economic activities other than those mentioned in articles 14 and 15 of this Act must report to the Costa Rican Drug Institute any commercial transactions carried out in a repeated manner and in cash, including transfers to or from another country, in national or foreign currency, of amounts equal to or greater than ten thousand United States dollars (US$ 10,000) or its equivalent in colones. Such economic activities include the following:
>
> (a) Bargain and sale or conveyance of real estate, weapons, precious stones and metals, works of art, jewellery, automobiles and securities;
>
> (b) Casinos, wagers and other operations related to games of chance;
>
> (c) Credit card operations;
>
> (d) Professional services.
>
> For these purposes, the forms produced by the Costa Rican Drug Institute shall be utilized."

As for customs controls, precious items such as gold, diamonds and similar items are considered as merchandise and, in principle, are to be declared as such by travellers.

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

As has been explained above in response to question 11, article 15 of Act No. 8204 extends financial controls to the subjects considered therein, obliging them to register with SUGEF and to submit to financial monitoring for the prevention of money-laundering. In this regard, SUGEF has already prepared the rules to govern such procedures, and it is expected that they will be adopted and implemented in the next two months. The proposed amendments to Act No. 8204 contained in the draft law to strengthen the existing counter-terrorism legislation will permit those controls to be applied also to the prevention of the financing of terrorism.

IV. Travel ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).

16. Have you included the names of the Listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

See previous answer.[1] As for problems encountered, the names on the List are generally difficult to verify precisely, mostly owing to the numerous aliases which are frequently used.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

The DIS updates the List periodically and transmits it to its regional offices, which coordinate with immigration control posts at all the country's authorized border crossing points. The immigration authorities do have the capability of searching List data using electronic means.

18. Have you stopped any of the Listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

No Listed individual has been stopped to date.

V. Arms embargo[2]

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2 (c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

Costa Rica does not possess, produce, import or export conventional weapons, weapons of mass destruction or any other types of weapons.

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[1] Translator's note: the previous answer (to question 15) is described by the reporting State in its covering letter as confidential and has been omitted at that State's request.

[2] Translator's note: Question 19 has been omitted — see footnote 1.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

See previous reply.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

See replies to questions 20 and 21.

Nevertheless, in terms of light weapons and explosives, Costa Rica has an Arms and Explosives Act (Act No. 7530 of 10 July 1995 and amendments). The following articles relate to controls on weapons of that type:

"Article 67. **Monitoring, oversight and supervision.** All aspects of the monitoring, oversight and supervision of any activity involving weapons, munitions, explosives, pyrotechnic devices, chemicals, explosive powder and raw materials for the manufacture of the products regulated by this Act are the responsibility of the Arms Directorate of the Ministry of Public Security, the Interior and Police."

"Article 68. **Manufacture, storage, trade, import and export.** For the manufacture, storage, trade, import and export of arms, munitions, explosives, pyrotechnic devices, explosive powder of any kind and raw materials for the manufacture of the products regulated by this Act, any individual or legal entity must have a permit from the Arms Directorate, which shall issue it in accordance with this Act and its Regulations. It is forbidden to sell explosive powder or to supply products based on such powder in any way to under-age persons or persons who have been placed under a banning order."

"Article 69. **Conditions.** Factories, industrial plants, workshops, commercial establishments and other establishments engaged in the activities listed in the preceding article shall comply with the conditions of security, technical functioning and production which are set out in the regulations."

"Article 72. **Characteristics of the permit.** Any person wishing to manufacture, store, trade, import, export or sell permitted weapons, munitions, explosives, explosive powder and raw materials for the manufacture of products regulated by this Act shall submit to the Arms Directorate an application for a permit, stating the characteristics, quantity, origin and means of distribution and sale of those items. The statements made in that application shall have the legal effect of a sworn statement. The applicant shall also attach a copy of the specific permit from the Ministry of Health."

The customs service will not authorize clearance without such a permit. For the manufacture, marketing and storage of the products regulated by this Act, physical installations shall meet appropriate security standards.

If the number of weapons exceeds 100, authorization from the Ministry of Public Security, the Interior and Police shall be required. In the issuing of the aforementioned permits, the Arms Directorate shall avoid any practice which is

monopolistic or restricts the freedom of trade. It is expressly forbidden to manufacture prohibited weapons or military equipment.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

See the answers to questions 20 and 21.

VI. Assistance and conclusion

24. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

Costa Rica is very willing to collaborate with other countries in exchanging intelligence information. The Government is also prepared to send any technical personnel required for training activities, on conditions to be determined by mutual agreement.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.

See answer to question 15. The Consolidated List does not appear in the databases of the Interpol office in Costa Rica, so it would be desirable to ensure that the List is incorporated into Interpol databases.

26. Please include any additional information you believe pertinent.

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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Letter dated 30 April 2004 from the Permanent Representative of Cambodia to the United Nations addressed to the Chairman of the Committee

Upon instructions from the Royal Government of Cambodia. I have the honour to hereby provide the report on actions taken by the Royal Government of Cambodia pursuant to resolution 1455 (2003), paragraphs 6 and 12, and resolution 1267 (1999) (see annex).

Your kind assistance in including Cambodia on the list of Member States that have submitted such reports would be greatly appreciated.

(*Signed*) **Ouch** Borith
Ambassador
Permanent Representative

04-33878 (E) 020604

Annex to the letter dated 30 April 2004 from the Permanent Representative of Cambodia to the United Nations addressed to the Chairman of the Committee

Actions taken by the Royal Government of Cambodia pursuant to resolution 1455 (2003) paragraphs 6 and 12 and resolution 1267 (1999)

I-INTRODUCTION :

At presence, the international terrorism still continues its activities of threats which cause lost of lives and much destruction to the people's properties. Despite many preventive movements against terrorism becoming the common global problem and more cooperation have successfully achieved in seizing a certain number of chieftains and terrorist networks, it is noted that the terrorist activities still exist and continue to increase, reflecting the effectiveness over them is limited.

1- SUPPRESSION ON INTERNATIONAL TERRORISM:

- Cambodia has adopted a firm policy fighting against terrorism in all its forms and manifestations. In practice, Cambodia closely cooperates with neighboring countries, in particular, with the United States of America to cease all activities of Muslim Group called " Jemaah Islamiyah (JI)" running the Om Al Tuora NGOs in Cambodia which was financed by Islam Al Koura in Saudi Arabia as well as from international terrorist Al-Qaeda. Their purposes are to seek for shelter and provide local educations to some supported members inside the country and to send them abroad accordingly. All authorities concerned have jointly done their utmost to ensure that Cambodia will never be used for the group as a sacred area of any terrorist acts against any countries and in a whole world.

- In year 2003, all intelligence agencies, police and military have intensified their cooperation, provided information sharing in the investigation and the search for the suspects as well as monitoring their movements, thus, 05 suspects were arrested, comprising 02 Egyptians, 02 Thai Muslims and 01 Cambodian Muslim who are currently under the process for trial. Moreover, the Om Al Kuora NGO has been ordered to stop operating in Cambodia forever as from now on. Also within this year period, Cambodian authorities

have discovered the weapons supply network of the Tamil Separatist (EELAM) and other 02 foreigners in connection were also deported.

The authorities, therefore, have remained in full alert and vigilant in tracing activities of the extremist elements, mainly to search for Al-Qaeda network and supporters.

2- **CAMBODIA IS IN CONVICTION** that the success can be achieved through the overall cooperation and joint commitments in the region as well as the international efforts at all levels to take concrete measures for investigation, law implementation, freezing assets and finance of those related terrorists and their supporters including the prevention to block the terrorists from integrating into the world financial system. However, fighting against the international terrorism obviously needs a long way ahead in which this requires a World Mechanical System to move forward on the basis of 2 factors : international political will and effectivness of capacity building.

II- POLICY AND GOODWILL OF THE RGC:

1- National law for prevention and elimination international terrorism:

Cambodia has a firm determination to fight against the international terrorism and commits itself to associate with the international community to fight against all forms of terrorism. The improvement of important existing laws in aim at promoting social safety and the fundamental rights of the people have been put as high priority and processed as urgent matters in order to guarantee the effectiveness of law implementation to fight against terrorism.

2- The criminal codes and legislative procedures of criminal codes in which only 300 articles were contained previously has now been drafted up to 1,500 articles. This new draft has been submitted to the Council Ministers for high consideration and then forwarded to the National Assembly for adoption.

3- In December 2003, by the participation and cooperation with the high level experts on finance from IM, Cambodia had drafted the law against

money laundering and financial supply to terrorists. This draft is being reviewed by the Ministry of Justice prior submitting the Council Ministers' consideration.

4- In January 2004, with the request of the RGC, the experts from UNODC had visited to Cambodia and organized a seminar on implementation of the 12 Universal Law Documents and on the prevention and suppression over the international terrorism including the establishment of the working group to characterize the new draft law concerning the combat against the terrorist acts in which the previous one contained only 4 articles.

5- The RGC in cooperation with the International Organizations and Civil Social Organizations had drafted a law on the control of weapons , ammunitions and explosion which has already submitted to the General Secretariat of the National Assembly.

6- In 2004, the RGC and the Government of Australia have set up a MOU concerning the cooperation to combat against the international terrorism in aim at establishing a framework of cooperation to prevent and suppress the international terrorism.

7- The RGC and the Government of the United States of America have set up a MOU of intention to provide the Program Control System to prevent terrorist acts at border check points. In year 2003, the Government of the United States of America had equipped with PISCES system at the Phnom Penh International Airport and also studied the feasibilities at the other important international check points for further installations of such system in the future.

8- Following the destruction of more than one hundred thousand weapons within the past years, Cambodia recently requested the cooperation from the United States of America (Support already confirmed) in preparedness to destroy 233 Air Ground Missiles A72 which are being stored in its warehouse in order to demonstrate Cambodia's goodwill in its determination to continue implementing the control, collection and destruction of weapons.

III- PARTICIPATION IN THE INTERNATIONAL AGREEMENTS ON ELIMINATION OF THE INTERNAIONAL TERRORISM :

The Law and Executive Institutions of Cambodia have been and being in full cooperation with the other Law and Executive Institutions in the regions and the world over which constitutes a part of its contribution to the joint efforts in aim at eliminating the terrorism out of the entire world.

1- The RGC has a true goodwill to participate in the 12 conventions and protocols of the United Nations to fight against the international terrorist acts. Cambodia has already become the state party to the 4 conventions and protocols and is being in position to submit to the National Assembly for ratification. The remaining 8 conventions and protocols will be signed soon.

2- Cambodia has declared to support and join the Agreement between Philippine, Indonesia and Malaysia concerning the establishment of legislative procedure for coordination and information sharing dated on 30 July 2002.

3- Cambodia acknowledge receipt of acceptance the ARF's recommendations organized by Co-Chairs of Singapore and Australia which was held from 03 to 05 June 2003 concerning the consolidate efforts to manage the impact of terrorist attack comprising a combination with the use of chemical, biological weapons and radio actives.

4- In August 2003, Cambodia attended the Second Session of the ASEAN law officials Meeting in Bali concerning the terrorist issues. The meeting came up with 2 following important initiatives:

a/- Conducting terrorism is regarded as criminalization and encouragement of the national law on the combat against terrorism of the ASEAN Members with coherence, and similar harmonization.

b/- Seeking possibility to create an ASEAN Regional Convention on Anti-Terrorism.

5- In August 2003, all ASEAN countries (including Cambodia) declared an ASEAN-EUROPE Joint Statement on the cooperation to fight against international terrorism and adopted the MOU between ASEAN-CHINA concerning the cooperation in Non-Traditional Security Issues (January 2004).

6- Cambodia has agreed upon the draft Joint Statement between the Minister of Foreign Affairs of Russian Federation and of ASEAN concerning the cooperation to fight the international terrorism which will be ready to sign in the coming ASEAN Ministerial Meeting to be held in July 2004 in Jakarta, Republic of Indonesia.

7- Cambodia supports the outcome of the cooperation of ASEAN with the United States of America in the cooperation framework on the management of disaster as part of the ASEAN-US's Anti-Terrorism.

8- Cambodia also attended the Ministerial Meeting concerning the fight against terrorism which was held in Bali on 4-5 February 2004 and agreed to issue one Joint Statement :

- Set up a working group of Senior Officials in charge of law implementation in aim at collecting information on terrorism and making recommendations including appropriate legal measures to fight against terrorism. The Ministers also urged all countries to provide ratifications on the 12 conventions against terrorism as soon as possible.

- Set up the working group of lawyers in aim at sharing and exchanging all related information to effectively fight against Terrorism.

- Request the leader of Terrorism Center for South East Asian Region in Kula Lumpur, the leaders of Academy of law implementation in Bangkok and the leaders of the Cooperation, Law Implementation Center in Indonesia to set up the working Group for effective coordination.

IV-FINANCIAL AND ECONOMIC ASSETS FREEZE :

The Royal Government of Cambodia has strictly implemented the asset freeze required by the resolution 1267 (1999), and paragraph 1 and 2 (a) of resolution 1390 and in accordance with Cambodian domestic law in this context and steps taken to address the issues:

- The Royal Government of Cambodia has instructed to all institutions and competent authorities concerned to comply with the Security Council Resolutions on freezing of the transfer of the suspected funds, mainly, the financial resources belonging the Taliban, Usama Bin Laden and the Al-Qaeda network.

- In order to take further effective counter-measures against the money laundering, the National Bank of Cambodia has also issued the PROKAS, its announcement to instruct to all finance Institutions to chase and identify any suspicious linkage of financial operations to the terrorist group and take immediate actions to freeze all assets and ban money transaction.

V- CONCLUSION :

The RGC is legally bound by all Security Council resolutions. To this End, Cambodia has drafted laws in dealing with terrorism which cover every step and measure to jointly suppress and combat against all forms of terrorist acts.

However, in order to address the imbalance and breaches of obligations which exist in the current international counter-terrorism process, the appropriate modalities for actions are needed, therefore, all states should extend full cooperation on the willingness to share operational as much as judicial information which enable to access to certain specific amenities./.

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Letter dated 3 May 2004 from the Permanent Representative of Andorra to the United Nations addressed to the Chairman of the Committee

At the request of my Government, I have the honour to transmit to you, in your capacity as Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), the report submitted by the Principality of Andorra (see annex). My Government will be happy to provide the Committee with additional information, as necessary.

I should be grateful if you could arrange for the text of the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Julian **Vila-Coma**
Ambassador
Permanent Representative

04-33884 (E) 040604 070604

Annex to the letter dated 3 May 2004 from the Permanent Representative of Andorra to the United Nations addressed to the Chairman of the Committee

[Original: French]

Report of the Principality of Andorra pursuant to paragraphs 6 and 12 of Security Council resolution 1455 (2003)

Andorra's interest in combating terrorism is evident in the preamble of its Constitution, which states: "The Andorran people (...) [are] eager to use every endeavour to promote values such as liberty, justice, democracy and social progress, and to maintain and strengthen the harmonious relations of Andorra with the rest of the world, and especially with neighbouring countries, on the basis of mutual respect, coexistence and peace."

In that respect, Andorra stands ready to cooperate with the Committee in drafting the report on measures taken to implement resolution 1455 (2003), as it has done previously in accordance with the obligations undertaken pursuant to the provisions of paragraph 6 of resolution 1373 (2001), by submitting a detailed report to the Counter-Terrorism Committee on 21 December 2001, followed by a supplementary report providing additional clarification on some matters treated in the first report, and lastly by a second supplementary report from the Government of Andorra, which answers questions raised by the Committee in its letter of 7 April 2003. The Andorran Government also submitted on 3 June 2002 a report pursuant to Security Council resolution 1390 (2002).

The Andorran Government is therefore firmly determined to combat all forms of terrorism by every available means, as has been publicly reaffirmed on many occasions by the Head of Government and the Minister for Foreign Affairs.

I. Introduction

1. Please provide a description of activities, if any, by Usama bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

The Andorran authorities are not aware of any activity carried out by Usama bin Laden, Al-Qaida, members of the Taliban or their associates in the Principality of Andorra. Nevertheless, the Andorran Government has been very vigilant regarding any activity or occurrence that might be linked to those individuals or entities.

II. Consolidated list

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The Ministry of Foreign Affairs of Andorra transmits the lists issued by the Security Council Committee established pursuant to resolution 1267 (1999) and by

the Security Council Committee established pursuant to resolution 1373 (2001) to the Money-Laundering Prevention Unit. Within the jurisdiction granted to it under article 53 of the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime, the Unit issues official communications (included in a confidential annex) reproducing the lists of natural and legal persons that might be linked directly or indirectly to Usama bin Laden, Al-Qaida, members of the Taliban or any other international terrorist group.

The Act states that the Unit is authorized to cooperate with other similar agencies in other countries for the purposes set forth in the Act, that is, combating the laundering of money and assets. The offence of money-laundering is defined as the commission of acts characterized as such under the Penal Code. Article 145 of the Penal Code provides for five main offences with respect to money-laundering: drug trafficking, kidnapping, illegal arms sales, procurement and terrorism.

Article 51 of the Act obligates those responsible for combating money-laundering to monitor all transactions that, although not suspicious, take place under complex or unusual conditions and seem to have no economic justification or legal purpose, and especially transactions likely to involve money-laundering operations and those requiring special monitoring according to the non-restrictive official communications issued by the Money-Laundering Prevention Unit.

Moreover, financial entities incorporate the names included in the lists into their databases so as to permit the identification of the individuals concerned. In response to these official communications, the Unit has received replies from those responsible under the Act confirming that no accounts exist in the name of individuals or entities cited in the aforementioned lists.

Moreover, when the police services receive these lists they immediately check to see whether they include the names of any Andorran nationals or residents. To date, no natural or legal person who might be linked directly or indirectly to Usama bin Laden, Al-Qaida, members of the Taliban or any other international terrorist group has been located in Andorra. The lists are then incorporated into a database to permit appropriate monitoring of applications for immigration or for permission to invest capital in Andorra.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.

To date, we have not encountered any problems with implementation with regard to the names currently included in the list. However, more detailed information on the individuals and entities included in the list would allow for more efficient verification.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

To date, no individual or entity included in the list has been identified in Andorran territory.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama bin Laden or members of the

Taliban or Al-Qaida that have not been included in the list, unless to do so would compromise investigations or enforcement actions.

To date, the Andorran authorities have not identified in Andorran territory individuals or entities qualifying for inclusion in the list.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list? Please specify and elaborate, as appropriate.

No listed person or entity has brought a lawsuit or engaged in legal proceedings against Andorran authorities because they were included on the list.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the list? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

No Andorran national or resident is included in the list.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

The Andorran Penal Code provides for a series of penalties for individuals who assist "organizations and groups that have jeopardized the security of the Principality or disturbed the peace and public order by means of arms or explosives or by committing attacks" (article 82). The Penal Code defines those individuals as:

- "Any person who, in order to obtain funds for the benefit of the organizations or groups (mentioned in the previous article) attacks property, causing death or serious injury, or commits a kidnapping" (article 83);
- "Any person who collects funds for the benefit of such organizations or groups" (article 84);
- "Any person who provides the members of such organizations with accommodation or any other resources" (article 85);
- "Any person who supplies or procures weapons or explosives for terrorists or armed groups" (article 86);
- "And any attempt to justify the offences or the organizations or groups referred to in the previous articles can be considered as support of such organizations" (article 87).

However, with regard to the recruitment of members of terrorist groups, a parliamentary commission which is currently preparing a complete revision of the Penal Code, will consider the possibility of including in the new text the penalization of recruitment in Andorran territory of members of terrorist groups operating in Andorra or abroad, directly or through fraudulent means.

III. Financial and economic assets freeze

Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

Note: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.

9. Please describe briefly:

- **The domestic legal basis to implement the asset freeze required by the resolutions above;**
- **Any impediments under your domestic law in this context and steps taken to address them.**

The Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime, of 29 December 2000, establishes the procedure for freezing funds and other financial assets in article 47, which stipulates that the Money-Laundering Prevention Unit may provisionally block a transaction if it considers such action to be justified by the evidence. The transaction may not be blocked for more than five days, the maximum time limit within which the Unit is required to terminate the block and authorize the execution of the transaction if the evidence is inaccurate or, if this is not the case, to transmit the action to the Public Prosecutor. The Prosecutor, with the approval of the courts, maintains or terminates the block.

In addition, concerning international requests for the freezing of funds, article 4 of the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime stipulates that international judicial cooperation shall be accepted, provided that:

(a) The proceedings abroad conform with the constitutional principles of the Principality in respect of the rights and freedoms guaranteed in chapter II of the Constitution;

(b) The measure requested does not conflict with the fundamental principles of the Andorran legal system;

(c) There are no substantial grounds for believing that the proceedings have been instituted against a person on account of his or her political opinions, social origin, race, religion or nationality;

(d) All the offences giving rise to the letters rogatory are punishable as criminal offences under Andorran law;

(e) The person who is the subject of the request has not been sentenced to imprisonment in the Principality and served his or her sentence or been acquitted in Andorra of the same offences;

(f) The acts giving rise to the request are not of a political nature and the request does not have a political end;

(g) The acts giving rise to the request, while they constitute an offence under Andorran law, are of sufficient importance to justify the intervention of the Andorran courts;

(h) The communication of the information does not undermine the sovereignty, security, public order or other basic interests of the Principality.

In any case, the Andorran judicial authorities would immediately freeze the assets mentioned in Security Council resolutions 1267 (1999) and 1390 (2002) if such funds or other financial assets were to be discovered in Andorra.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The Government of Andorra would like to explain that the Money-Laundering Prevention Unit (the Andorran financial intelligence unit), which joined the Egmont Group of Financial Intelligence Units of the World on 5 June 2002, has the authority to cooperate with similar agencies in other countries in combating money-laundering and the financing of terrorism. To date, it has signed bilateral agreements with France (TRACFIN), Spain (SEPBLAC), Belgium (CTIF-CFI), Luxembourg, Monaco, Poland and Portugal.

However, as stipulated in articles 55 and 56 of the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime, cooperation with other similar foreign agencies does not require the existence of written agreements.

"The Money-Laundering Prevention Unit referred to in the previous articles shall cooperate with other similar foreign agencies" (article 55).

"The transmission of information concerning operations or projected operations relating to money-laundering and international crime, and of extracts from court files, to other similar foreign agencies may be done by the Money-Laundering Prevention Unit on its own initiative or at the request of such agencies, but shall always require the authorization of the chief administrative officer of the Unit and shall be subject to certification, in advance of transmission, by the party receiving the information that it meets the following conditions:

"(a) Reciprocity in the exchange of information;

"(b) An undertaking on the part of the receiving State that it will not use the information for purposes other than those covered by this Act;

"(c) The obligation, on the part of the foreign agencies receiving the information, to maintain professional secrecy under pain of criminal prosecution" (article 56).

However, some financial intelligence units have requested that such cooperation should take place on the basis of a pre-existing bilateral agreement: a standard document prepared by the Egmont Group (known as a memorandum of understanding) through which the various units may cooperate.

On 17 June 2003, the Andorran Government approved negotiations leading to the signing of such agreements with the financial intelligence units of the following countries: Italy, Liechtenstein, Luxembourg, Mexico, Monaco, the Netherlands, Panama, Poland, Portugal, Romania, Russia, Slovenia, Switzerland, the United Kingdom, the United States of America, Uruguay and Venezuela.

In addition, the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money-Laundering Measures and the International Monetary Fund have evaluated and expressed their approval of the Principality of Andorra's system for preventing and combating money-laundering and the financing of terrorism.

The sharing of information on perpetrators of terrorist acts must be handled through the Andorran police. There is mutual cooperation between the Andorran police force and the police forces of other States, which exchange information rapidly and spontaneously, without the need for bilateral agreements, or through the International Criminal Police Organization (Interpol). Furthermore, two protocols on police cooperation have been concluded with the Spanish authorities.

Responsibility for coordinating counter-terrorism policies at the national level lies with the Government. The Principality of Andorra covers 468 square kilometres and has 72,320 inhabitants. It is divided into seven *parròquies* ("parishes"), which are represented and administrated by the *comuns* ("communes"), public authorities having legal personality and the power to enact local regulations, subject to the law. Within their spheres of competence, which they exercise in accordance with the Constitution, the law and tradition, they respect the principle of free administration recognized and guaranteed by the Constitution. However, they are not responsible for police- and security-related matters, which are the prerogatives of the national Government.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

In order to verify enforcement of the law, the Money-Laundering Prevention Unit, in the exercise of its functions, may submit a substantiated request for information and documents to entities under obligation to report. It may even procure information through the police or cooperate with similar agencies in other countries. It may also provide financial institutions with "black" lists of organizations and individuals in order to alert them thereto, as has been done in the case of the list circulated by the Committee established pursuant to resolution 1267 (1999).

Under the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime, Andorran financial institutions, insurance and reinsurance

companies and other natural or legal persons who, in the exercise of their profession or business activity, carry out, monitor or give advice regarding transactions involving the transfer of funds or assets are required to report to the Money-Laundering Prevention Unit. Such reporting is required in the case of any transaction or planned transaction involving funds or assets which they suspect might involve money-laundering (articles 45 and 46).

In particular, the Act establishes reporting requirements for independent professional accountants and financial advisers, real estate agents, vendors of high-priced goods (when payment is made in cash and involves an amount equal to or greater than 15,000 euros), notaries and other independent legal professionals when they are involved in the planning or execution of transactions for their clients in connection with certain activities. These activities include the purchase and sale of real estate or businesses, the handling of cash, securities or other assets of clients and the opening or management of bank, savings or stock accounts. They also include fund-raising for the establishment, administration or management of corporations and the establishment, administration or management of trust companies and similar structures.

The Unit transmits to entities under obligation to report, through an official communication, a standard customer identification form entitled "Know your customer" (included in the confidential annex to this report), which gives them a better idea of the customer's identity so that they can correctly identify any individuals or entities belonging to financial networks with links to Usama bin Laden, Al-Qaida or the Taliban, to those who provide assistance to them, or to individuals or groups associated with them.

Entities under obligation to report, and especially financial institutions, are also required to establish an office responsible for internal monitoring and reporting in order to anticipate and prevent money-laundering operations. Its functions include ongoing monitoring and reporting of all suspicious transactions; training of all staff members, especially those who are in contact with clients; establishment of internal rules and regulations; and conducting of an annual internal audit, which will be transmitted to the Money-Laundering Prevention Unit.

The functions attributed to the Unit by the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime, adopted on 29 December 2000, include the right of its officials to meet with the staff of entities under obligation to report, as defined in article 48 of the Act, and to visit the premises of such entities. Thus, the Unit can carry out on-site inspections and request relevant documents or information in order to verify that the obligations established in this Act have been met by the entities concerned.

Various inspections have already been carried out, with highly satisfactory results (a sample inspection report is included in the confidential annex to this report).

In addition, entities under obligation to report, especially those which are part of the financial system, must submit to the Unit a specific external audit report on the subject of anti-money-laundering practices. This external audit report must explain the complete structure of the entity's internal monitoring office, the office's functions and a description of the internal procedures relating to its communications

network, document storage, client identification and so on. After reading this report, the Unit may propose any necessary correction and improvement measures and follow up on them. This report, which must be submitted annually, is compulsory and must be delivered to the Unit within three months of the end of the fiscal year on pain of administrative penalties. The Unit establishes the format and content of the reports through official communications (included in the confidential annex to this report). The procedures to be carried out by the external auditors include verification of internal practices and of respect for the identification and declaration requirements.

In practice, if, during these inspections or during investigations initiated by the Unit, the judicial police or the legal authorities, it appears that an unusual or suspicious transaction has not been declared, the omission of this declaration is viewed as a very serious administrative offence which may entail a fine of 60,001 to 600,000 euros and the temporary suspension or dismissal of the responsible directors or staff of the entity in question.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **Identification(s) of the person or entities whose assets have been frozen;**
- **A description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **The value of assets frozen.**

The Andorran authorities have had no occasion to freeze any assets of individuals or entities under resolutions 1267 (1999), 1333 (2000), 1390 (2002) or 1455 (2003).

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama bin Laden or members of Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

The Andorran authorities have had no occasion to release any funds pursuant to resolution 1452 (2002) because they had not previously had occasion to freeze funds relating to Usama bin Laden or members of Al-Qaida or the Taliban or associated individuals or entities.

14. Pursuant to resolutions 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used;**

- **Required bank-reporting procedures, if any, including the use of suspicious transaction reports, and how such reports are reviewed and evaluated;**

- **Requirements, if any, placed on financial institutions other than banks to provide suspicious transaction reports, and how such reports are reviewed and evaluated;**

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items;**

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

The methodology used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee is that of official communications prepared by the Money-Laundering Prevention Unit and sent to all entities obliged to comply with article 51 of the Act on International Cooperation in Criminal Matters and Prevention of the Laundering of Money or Securities Constituting the Proceeds of International Crime; see also the explanations provided under question 11 above.

The procedures required for the submission of bank reports concerning, inter alia, suspicious transactions have been developed by the Unit and transmitted through official communications to entities under obligation to report (copies of these communications are included in the confidential annex to this report). These official communications require the entities in question to inform the Unit and, in particular, to describe in detail:

– The identity of the customer who is the subject of the suspicious transaction report (personal data, account numbers, identity card etc.);

– The names of persons having any relationship to the customer (those who authorized or benefited from the transaction or who have other, related accounts);

– A description of the transaction (nature or form of the suspicious transaction, amount, currency, place, date); and

– The grounds for suspicion.

The obligation for financial institutions other than banks to submit suspicious transaction reports, and for vendors of high-priced goods, is the same as for all entities subject to such obligations. See the explanations provided under item 11 above.

In alternative or informal systems, money or securities are moved through channels outside the financial system, with the funds or goods being payable as cash

in another country. Such alternative systems are usually used by particular ethnic or national groups, or other organized groups.

Because associations in the Principality of Andorra are restricted and tightly controlled, this high-risk practice has never developed, and there are no informal fund-transfer systems or alternative money-transfer agencies.

However, any natural or legal person providing such financial services without the appropriate authorization would be committing a serious administrative offence, under article 15 of the Act of 27 November 1997 regulating disciplinary arrangements for the financial system and would incur a penalty under article 18 of that Act (a fine of 150,000 to 300,000 euros and temporary or permanent restriction of the establishment's operation). The same natural or legal person would also be committing a criminal offence under article 141 bis of the Penal Code, which carries a sentence of up to five years' imprisonment and a fine of up to 150,000 euros. If the financial activities have involved a legal person, that legal person may incur the additional penalty of being forcibly dissolved.

The Act of 19 December 1996 on the terms of operation of the financial system establishes which entities make up that financial system, and defines the activities which each of them can undertake, subject always to the authorization and regulation of the appropriate administering body. Article 9 (a) prohibits non-banking financial institutions from accepting routine deposits or other repayable funds from the public, as that is the function of a bank.

The current composition of the Andorran financial system is as follows:

Banking establishments: six authorized establishments

Non-banking specialist credit financial establishments:

- specializing in mortgage loans: none accredited
- specializing in forward sales: 1 accredited
- specializing in leasing: none accredited
- specializing in factoring: none accredited

Investment-related financial establishments:

- financial establishments managing assets: 5 accredited
- financial establishments managing investment bodies: 3 accredited
- financial establishments promoting venture capital: none accredited

Financial establishments providing miscellaneous services:

- currency-exchange institutions: none accredited
- institutions providing financial advice: none accredited
- financial intermediation institutions: none accredited

Regulation of the Andorran financial system began in 1989 with the Act establishing the Andorran National Financial Institute (INAF), which oversees and monitors the financial system. Prior to that, the financial sector had been self-regulating, through a code of conduct based on the Basel principles and the various international conventions and standards for combating money-laundering.

Once INAF had been set up and was in operation, an Act on provisional measures ordering and regulating the financial sector was adopted (28 April 1993); it was subsequently amended by the Act on the terms of operation of the financial system of 1996. It stipulated that until such time as an Act regulating the financial system was adopted, no new financial entity could be placed on the Administrative Registers, in other words, no such entity could be established. In November 1993, the Act regulating the financial system was adopted. It stipulated, among other things, that all financial activities must be conducted through a legal person, and that until such time as a specific Act setting the minimum reserves for each type of activity was adopted, no accreditation would be issued. So far, only the texts regulating banking activity have been adopted, and it should be pointed out that no new banking institutions can currently be licensed.

Thus, the financial system is currently closed. Only subsidiaries of banks have been authorized, since the legal texts require certain activities to be separated off.

This situation explains why Andorra in practice has only some of the non-banking financial activities which are typical of the average financial system.

The acts regulating the Andorran financial system can be found at http://www.inaf.ad.

With regard to associations, the qualified Associations Act of 29 December 2000 seeks to develop the freedom of association recognized in the 1993 Constitution, and to regulate associations in general, without affecting special legislation governing specific associations.

For the purposes of the Act, an association is any voluntary group of three or more persons who seek, by means which are not in violation of the law, to attain a legitimate, non-profit goal.

Associations governed by this Act may engage in economic activity provided that they operate within the bounds of their statutes and do not seek, whether explicitly or implicitly, to generate profits to be divided among their members.

This Act provides for administrative penalties which may be applied.

However, article 1.2 of the Act stipulates that the aims of all associations must be legitimate and non-profit. Article 29 of the Act stipulates that associations receiving public grants must account for the use of those grants to the body which paid them. Associations may in addition be dissolved by a final decision of a court, under the terms laid down in articles 100, 146 and 82-84 of the Penal Code.

Article 100 makes it illegal to form an association of two or more people to plot or commit an offence.

Article 23 of the Associations Act imposes responsibilities on associations and the members of their general meetings. Accordingly, associations are held accountable for what they do and what they fail to do with all their assets and rights, present and future. The members of the general meeting are answerable to the association, associates and third parties for any action they take in the performance of their duties that is contrary to the law or to the association's statutes, and for damages and compensation resulting from wilful deception or negligence. In addition, the members of the general meeting have joint and several responsibility for actions agreed on collectively, unless they have declared their opposition thereto.

Joint and several responsibility also applies if the action or failure to act cannot be attributed to one or more of those members individually and exclusively.

IV. Travel ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

Because of its geographical characteristics, Andorra has no air access of its own. Furthermore, Andorra is located in the middle of the Pyrenees, making maritime access impossible.

As a result, the only access to Andorra is by land through two single entry passages: in the north, the Franco-Andorran frontier, in the south, the Hispano-Andorran frontier. This means that individuals who arrive in Andorra have first passed through the entry and exit controls of our neighbouring countries.

Even so, Andorran police officers verify once again that the individuals are in possession of the necessary travel documents — a passport, for example — and even that they have sufficient resources to permit a stay in Andorra.

Still, since the attacks of 11 September 2001, the Andorran police, made more aware by the events that shocked the whole world, have reinforced their border controls so as to detect the entry of possible terrorists into Andorra. Furthermore, the members of the police force, in cooperation with the Spanish and French police, have taken training courses so that they can more easily detect whether documents have been tampered with. In order to prevent the counterfeiting of passports, Andorra follows the rules of the International Civil Aviation Organization (ICAO) regarding official travel documents. These rules have been followed since 19 April 1995, even before Andorra's admission to ICAO on 26 January 2001. These security measures allow for strict surveillance and prevent potential counterfeiting. They are also applied in connection with immigration papers.

In any case, when in doubt, Andorran police officers use the operational information units in order to obtain information. If, despite all this, an individual appearing on the list mentioned in paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002) enters Andorra with the intention of settling there, he or she will have to follow the procedure for immigration applications.

Under the Immigration Organization Act of 14 May 2002, article 20, paragraphs 1-3, an immigrant seeking to become legally resident in Andorra must apply to the Immigration Service. The application may, however, be denied in accordance with the third interim provision of the Act, which states that the applicant's judicial and police records must be examined.

In that regard, the police have the authority to check the judicial and police records of foreign nationals and the authenticity of the official documents in their possession and generally to ensure public order (article 4 of the Decree on the Immigration Service, of 16 October 2002).

When an immigration application is denied, the individual concerned is asked to leave Andorra as soon as possible. If necessary, a deportation order is issued and the individual concerned is escorted back to the border, on the basis of articles 104 et seq. of the Act.

The Act also establishes certain criteria relating to persons applying for immigration permits. For example, article 42 establishes that a person who submits an immigration application must not pose any danger to the security of the State or of persons or property, or to law and order, and article 47 provides for the denial of authorization in cases where documents or information have been falsified or withheld. (The same criteria would apply to residents who wish to renew their immigration authorizations.)

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

The listed individuals do indeed appear in the files used at border checkpoints. The police services have a file listing individuals who have been deported following a judicial or administrative decision. Monitoring at border checkpoints is based on that list of deported persons and on police files of persons being sought or who have been detained. The files also contain data on persons being sought at the international level, based on information sent by Interpol or obtained from its files, lists issued by international organizations and forwarded by the Ministry of Foreign Affairs, and lists sent by other countries.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

These databases are updated automatically, and border checkpoints are fully equipped with electronic means of searching for data.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

To date, no Listed persons have been stopped at border points or at the frontiers of Andorran territory.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

Andorra does not have its own legislation governing visas. Nevertheless, in December 2000, the Principality signed a convention with France and Spain concerning the movement and stay of third-country nationals in Andorra, article 2 of which provides that "the Contracting Parties undertake to coordinate their legislation on the entry and stay of third-party nationals, taking into particular account their respective interests and their international commitments. To that end, the Contracting Parties shall regularly provide each other with the list of third States whose nationals are subject to a visa requirement for a transit or a stay of less than 90 days".

Under article 3 of the Convention, nationals of third States may not enter Andorra unless they possess a valid travel document, with the appropriate visas where necessary.

V. Arms embargo

Under the sanctions regime, all States are required to prevent the direct or indirect supply, sale and transfer to Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories, of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance or training related to military activities (paragraph 2 (c) of resolution 1390 (2002), and paragraph 1 of resolution 1455 (2003)).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction by Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export controls do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

Andorra has been free of weapons and war for over seven centuries, a historical fact that serves to confirm its desire to join with other countries in the efforts to keep the world free of nuclear, chemical and biological weapons. To that end, it ratified the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction on 29 June 1998 and the Treaty on the Non-Proliferation of Nuclear Weapons in June and July 1996. Furthermore, on 24 September 1996, Andorra signed the Comprehensive Nuclear-Test-Ban Treaty and, on 9 January 2001, concluded an agreement with the International Atomic Energy Agency concerning the application of safeguards within the framework of the Treaty on the Non-Proliferation of Nuclear Weapons.

On 31 July 2002, during a meeting of the Council of Ministers, the Andorran Government approved Andorra's accession to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction. The Consell General (Parliament) gave its approval on 17 October 2002, following which the Permanent Mission of the Principality of Andorra to the United Nations deposited the instrument of accession on 27 February 2003. Since article XXI, paragraph 2, of the Convention provides that it shall enter into force on the 30th day following the date of deposit of the instrument of accession, it entered into force in respect of Andorra on 29 March 2003.

The Andorran legal system includes a number of provisions relating to arms trafficking. Firstly, a decree of 3 July 1989 regulates the possession, use and distribution of firearms. In particular, sections II and III list the prohibited weapons and imitations of prohibited weapons and those which may not be carried.

Secondly, the Penal Code penalizes the unlawful possession of firearms (articles 289 and 290), as well as for the "stockpiling, import, export, sale or transit, real or fictitious, through the Principality, as well as the manufacture of prohibited arms or imitations of such arms, envisaged in section 2, article 2, of the decree of 3

July 1989, except those mentioned in paragraph 8. Such offences are punishable by imprisonment of up to ten years"; "illegal carrying of one or more such arms (...) is punishable by imprisonment of up to five years" (articles 89 and 90).

Thirdly, article 93 states "the import, purchase, sale, possession, carrying and repair of regulated arms or the manufacture of regulated munitions, without the necessary permits, authorizations or licenses shall be punishable by imprisonment of up to three years, except in the cases envisaged in articles 289 and 290 of this code. Smooth-barrelled hunting guns are exempted from the provisions of this article".

Along the same lines, article 95 states "the illegal sale of a regulated handguns to anyone who is not a resident of the Principality shall be punishable with imprisonment of up to four years".

Lastly, articles 96 and 98 respectively state "anyone who carries out international transactions with regulated arms which involve real or fictitious transit through the Principality shall be imprisoned for up to eight years". As regards explosives, "the purchase, sale, possession or import of explosives not intended for use in an authorized activity shall be punishable with imprisonment of up to ten years".

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

The violation of the arms embargo is penalized under articles 89, 90, 93, 95, 96, 98, 289 and 290 of the Penal Code, as described in the reply to question 20 above.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

The arms and arms broker licensing system is based on the Decree concerning the possession, use and distribution of firearms of 3 July 1989. Accordingly, Andorran gunsmiths can sell category 1 and 2 weapons (guns and ammunition) only to the holders of a purchasing order. With regard to ammunition sales, if the purchaser holds a licence to bear or possess the corresponding weapon, the ammunition will be handed over immediately on the gunsmith's premises. If the purchaser is a non-resident alien, the ammunition will be handed over at the central police bureau. In the case of the sale of handguns, the licensed retailer will hand them over at the central police bureau.

A weapons inspector will record the make, model, calibre and serial number of the weapon on the purchasing order and on the arms licence and will prepare a relevant owners' guide (except in the case of non-resident aliens).

If the purchaser is a non-resident alien, the police will transport the weapon to the border, where it will be handed over to the purchaser on his/her departure from the Principality.

The Andorran courts are competent to grant firearms licences to individuals with the appropriate physical and psychological capacities and the technical ability

to use and maintain weapons who are aware of the minimum security standards that must be observed.

The various types of arms licences, issued and signed by a judge of the correctional court and a judge of the minor offences court, grant authorization for the ownership and use of weapons registered in accordance with the provisions of paragraph (b) of this section. Notwithstanding, the judges may include in the licences any additional restrictions that they consider appropriate.

The owners' guide for each weapon listed on the licence will be provided by the police. The guide will contain the personal information of the weapon's owner, who may be a natural or legal person, the make, model, calibre and serial number of the weapon and the place where it will be stored, the number and category of the arms licence on which it is listed and the individual number of the guide.

In certain cases, a single weapon may be listed on several licences.

Applications for licences may be submitted to the courts through the police service.

23. **Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

This question is not applicable, since the Principality of Andorra produces neither arms nor ammunition.

24. **Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.**

The Principality of Andorra is willing to cooperate with other States to help them implement the measures contained in the above-mentioned resolutions. In that connection, in 1999, Andorra participated in a programme for the destruction of small arms in Albania and, subsequently, in a similar programme in the Niger, through the Department for Disarmament Affairs of the United Nations.

Furthermore, during the first quarter of 2004, the Principality of Andorra chaired the Forum for Security Cooperation (FSC) of the Organization for Security and Cooperation in Europe. The main objectives of the Andorran chairmanship were to continue to strengthen arms control, disarmament and security and confidence-building measures and to pursue the fight against terrorism. In its capacity as chair of FSC, Andorra was able to take part in meetings with the Security Council Counter-Terrorism Committee.

25. **Please identify areas, if any, of incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.**

More detailed information about the individuals and entities on the Committee's list would permit their more effective identification.

26. Please include any additional information you believe pertinent.

The Principality of Andorra remains at the Committee's full disposal with regard to the provision of any necessary information and is receptive to all its recommendations.

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 24 May 2004 from the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Libyan Arab Jamahiriya to the United Nations in New York presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities and has the honour to transmit to him the report submitted by the Libyan Arab Jamahiriya pursuant to paragraph 6 of Security Council resolution 1455 (2003) (see annex).

04-38297 (E) 140604 160604

Annex to the note verbale dated 24 May 2004 from the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Chairman of the Committee

REPORT OF THE LIBYAN ARAB JAMAHIRIYA ON THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1455 (2003)

I. INTRODUCTION

The role of Osama bin Laden in establishing camps to take in Arab and Afghan volunteers and provide them food and training during their presence in Afghan territory affected the formation of the Al-Qaida organization. This subsequently led to the development of what is known as the World Islamic Front for Jihad Against Jews and Crusaders, which announced itself in February 1998. It was joined by a group of Arab organizations, one of which was known as the Libyan Islamic Fighting Group.

Thanks to these connections, Osama bin Laden recruited a large number of Libyan youths and brought them into his organization. Some of them worked with him as personal bodyguards in Afghanistan and the Sudan, while others collaborated with him on investment projects. Such was the case of Ibrahim Ali Abu Bakr Tantush, also known as Abd al-Muhsin al-Libi, whose name appears on the list of individuals and entities belonging to the Al-Qaida organization and the Taliban prepared pursuant to Security Council resolution 1267 (1999). He was director of the Revival of Islamic Heritage Society in Peshawar and was accused of transferring funds to the Al-Qa'ida organization.

According to the findings of documented investigations, Bin Laden worked in coordination with the Libyan Islamic Fighting Group on the planning and execution of terrorist operations, which included attempts to bring in weapons across the Libyan border and deliver them to Algerian elements belonging to the Algerian Armed Islamic Group. Then there were the findings of the investigations relating to the killing of a German national, Silvan Becker, and his wife in the Libyan town of Syrte at the hands of members of the Islamic Fighting Group, which belonged to the Al-Qa'ida organization, in March 1994, in the wake of which the Libyan authorities, at the request of the international police (Interpol), issued a warrant for the arrest of Osama bin Laden on charges of murder and unlawful possession of weapons.

It is worth noting that the elements that carried out that act and Osama bin Laden's arrangements are still wanted and that their organizational connection to the Al-Qa'ida organization has been confirmed. They are:

1. Faraj Hasan Husein al-Shibli;

2. Faez Abu Zeid Muftah al-Warfali.

As to the Taliban movement, there is no evidence of any existence of it in the Jamahiriya, nor are there any precedents to indicate that it might have any activities in the country.

II. THE CONSOLIDATED LIST

The General People's Committee for Public Security (Ministry of the Interior) has taken the necessary steps for putting into force the consolidated list, with full coordination among the competent bodies.

It should be mentioned that the list does not contain complete names. The data relating to those names is fundamentally flawed; consequently, it is not possible to make full use of them and the desired result cannot be achieved. The names must be constantly updated, any new particulars being added to them. With the help of the States to which the persons in question belong, data might be added that would help in the

process of full identification. This might include the addition of pictures of the persons whose names are on the list.

There is nothing to indicate the presence of any of the suspects within the territory of the Jamahiriya.

A list of persons cooperating with Osama bin Laden whose names have not been included in the consolidated list will be forwarded to you under separate cover. In accordance with the established legal procedures, all cases involving such persons have been turned over to the judiciary. Consequently, the lists to be forwarded subsequently will include their names, together with the proposal that they should be added to the consolidated list.

It turns out that the names appearing in the list under item (c), numbers 6, 17, 20 and 31, relate to Libyan nationals whose place of residence is currently unknown and who are believed to be outside the country. Another name inserted by the Committee on 12 November 2003 under No. 29, among those of 15 individuals, is Faraj Farj Hasan al-Sa'idi, also known as Muhammad Abdullah 'Imad and as Hamzah al-Libi (Hamzah the Libyan).

With regard to any Non-Libyans resident in the country, investigations carried out revealed the presence in the country of a member of the Al-Qa'ida organization from Morocco for the purpose of coordinating terrorist acts internally within the framework of cooperation with Al-Qa'ida and what is known as the Libyan Islamic Fighting Group (the investigations indicate that he is from Morocco, and we shall provide you with additional information in this regard at a later time).

No Al-Qaida training camps exist within Libyan territory. Moreover, Libyan law prohibits recruitment and support for operations against foreign States. Indeed, article 168 of the Penal Code provides as follows: "Rallying against a foreign State without the permission of the Government or carrying out other hostile acts likely to expose the Libyan Arab Jamahiriya to the danger of war are punishable by imprisonment".

Article 206 provides: "The death penalty is incurred by anyone who calls for any assembly, organization or formation prohibited by law; undertakes the establishment, organization, management or financing or prepares a place for the meetings thereof; becomes a member thereof or urges others to do so by any means whatsoever; provides any assistance thereto; or receives or obtains, whether directly or indirectly, by any means whatsoever, money or benefits of any kind or aids any person or entity for the purpose of bringing about such prohibited assembly, organization or formation or preparing the way for it to be brought about. The penalty shall apply equally to leaders and subordinates, irrespective of their rank in the assembly, organization, formation or the like, and regardless of whether the headquarters of such assembly is within the country or without."

It is clear from the preceding two texts that recruiting and carrying out hostile acts against foreign States are prohibited regardless of the State against which they are committed, irrespective of the nature of the hostile acts and regardless whether they are committed directly or indirectly, or in other words, regardless whether the act committed is in itself a hostile act or assists or supports such an act. The same applies in respect of assistance to prohibited organizations or assemblies. In Libya all assemblies and organizations are prohibited insofar as they are outside the Basic People's Congresses, which include all Libyan citizens.

Though Libyan laws contain no provisions regarding the Al-Qa'ida organization per se or other organizations of that nature, they do criminalize any act that includes assistance or support to or the recruitment of persons. Consequently, there is no need for urgent legislative measures at this time.

III. FREEZING OF FINANCIAL AND ECONOMIC FIXED ASSETS

Under Libyan law any funds that are unlawful as to their source, cause, purpose or manner of use may be frozen; therefore any funds used for terrorist acts or other criminal acts may be frozen or seized.

Circular No. 1 issued by the Governor of the Central Bank of Libya on 28 May 2002 indicated the mechanism for ascertaining the nature and manner of use of sums deposited with banks and the modalities for reporting questionable transactions. The Central Bank updated a number of administrative units and jobs concerned with investigating accounts and reporting, namely:

1. The financial information unit within the Central Bank of Libya;

2. Supervisor of the Bank's general unit for combating money-laundering;

3. The bank branch money-laundering supervisor.

Supervisors have been appointed at all commercial banks and bank branches as well as at specialized private banks and insurance companies.

The aforementioned circular of the Governor of the Central Bank of Libya spells out the mechanism for reporting irregular operations, as follows:

1. All banks of various descriptions, money-changing offices and other financial institutions, as well as the secretaries and members of the their People's Committees, the chairmen and members of their boards of directors and managing committees and employees, are personally required to report any unusual financial transaction aimed at money-laundering to the financial information unit of the Central Bank of Libya or other authorities or bodies designated in the future by the Central Bank of Libya.

2. With a view to facilitating the process of checking banking transactions suspected of being aimed at money-laundering that take place through banks and money-changing offices in particular, as well as other financial institutions, those institutions are required to submit reports on such cases to the financial information unit at the Central Bank of Libya and to fill in the related form.

Article 18 of the said circular provides that whenever the Central Bank of Libya learns of any money-laundering activities concerning which it is in possession of sufficient proof, it must submit a report thereon to the authorities charged with implementing the law.

Inasmuch as during the previous period, since the adoption of the procedures relating to the fight against money-laundering and the circulation of the procedures and information issued by the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities (Al-Qaida and Taliban Sanctions Committee), no money-laundering operations have been observed in Libyan banks and no banking transactions have been recorded either at home or abroad involving any of the persons or entities included in the resolutions on sanctions and the freezing of funds, there has been no report of any operations in any of the forms or manners for which reporting is required, including suspicious transaction reports (STR). Nor have Libyan banks been informed or notified of any suspicious transactions having taken place at foreign banks outside the Jamahiriya.

IV. TRAVEL PROHIBITIONS

According to the Great Green Document on Human Rights, the right of travel and movement is guaranteed as a natural right exercised by every citizen. By way of exception to this principle, judicial and administrative measures may be taken to prohibit travel by any citizen in the event of violation by him of any of the laws in force that require the taking of preventive measures of that nature against him. In any event, in cases relating to terrorism, travel-prevention measures are taken without exception.

The names of the individuals included in the list have been entered in the computer system, which is now in use at all the border-crossing points in the Jamahiriya.

Updated lists, which are sent out periodically, can be searched electronically at all entry-exit points.

To date, no arrests of individuals whose names appear in the list have taken place.

According to the rules of procedure in force in the public administration of passports and nationality in Libya, any entry into the country entails reference to the basic information list, which is consequently an absolute requirement.

V. BAN ON WEAPONS

Trading and dealing in weapons in Libya is limited to the public authorities. Consequently, the sale, import, export or transport of weapons may take place only with the knowledge of the competent authorities in the public security bodies.

Inasmuch as the possession and acquisition of weapons are the object of a general and all-inclusive prohibition under the law, it is not likely that nationals or aliens will undertake to deal in arms within Libyan territory. Anyone who does so will incur the deterrent penalty, inasmuch as article 3 of Act No. 7/1981 provides as follows:

"The possession, acquisition, purchase, sale, delivery, transport or tendering of any weapons, ammunition or explosives for the purpose of trade, or trading therein in any manner whatsoever, under conditions other than those specified by law, shall be punishable by life imprisonment.

The possession of any weapons, ammunition or explosives, without a permit issued in accordance with the provisions of the said Act (Arms and Munitions Act) and other laws and regulations aimed at bringing about the creation of the Armed People, shall be punishable by imprisonment. In the case of hunting weapons, however, the penalty shall be detention.

On examining the Arms and Munitions Act, we find that it lays down stringent conditions for the granting of permits for the possession and carrying of weapons. It limits the bearing of arms to persons the nature of whose work so requires, such as policemen and members of the armed forces and the judiciary. The possession and carrying of hunting weapons, on the other hand, is permitted under licence by the General People's Committee for Public Security. However, a number of years ago such weapons were withdrawn from those possessing them out of security considerations and it is no longer permissible for anyone to bear them. Consequently, the possession and bearing of such arms and dealing in them constitute a punishable offence.

In view of the foregoing, it is unlikely that cases of sale or transport of weapons or related materials will occur within Libyan territory in connection with Al-Qa'ida or other organizations or persons.